

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CHARLES L. LATIMORE,

Civil Action No.:

Plaintiff,

NOTICE OF REMOVAL

- against -

JUAN ROMAN and A. DUIE PYLE, INC.,

Defendants.

TO: ASHLEY NICOLE JACOBY, ESQ.
WINGATE, RUSSOTTI, SHAPIRO MOSES & HALPERIN, LLP
Attorney for Plaintiff
CHARLES L. LATIMORE
420 Lexington Ave. Suite 2700
New York, NY 10170

PLEASE TAKE NOTICE that pursuant to 28 U.S.C., Section 1441, defendants, JUAN ROMAN and A. DUIE PYLE, INC., (hereinafter the “Removing Defendants”), hereby remove this action from the Supreme Court of the State of New York, County of Bronx, to the United States District Court for the Eastern District of New York. The Removing Defendants appear solely for the purpose of removal and for no other purpose, reserving all other defenses available to them, and allege as follows:

1. The defendant, A. DUIE PYLE is an authorized foreign corporation with its principal place of business at 650 Westtown Road, West Chester, Pennsylvania 19382. The defendant, JUAN ROMAN, resides at Seymour Connecticut. The plaintiff’s residence is 894 New Lots Avenue, Apt 2F, Brooklyn, New York, County of Kings. *See*, Plaintiff’s complaint, annexed hereto as **Exhibit “A”**.

2. This notice of removal is being filed within thirty (30) days after receipt by the Removing Defendants of Plaintiff’s Response to Defendants’ Notice to Admit, dated March 30,

2022, a copy which is annexed hereto as **Exhibit “B”** and a copy which is annexed hereto as **Exhibit “C”** Defendants’ Demand to Notice to Admit. New York State CPLR § 3717(c) directs that a Plaintiff in a personal injury action “shall not state the amount of damages” to which he asserts entitlement. When this provision of the New York State CPLR was amended to reflect as such, defense counsel, including the undersigned, began serving, pursuant to CPLR § 3017(c), a discovery demand entitled a “Demand for Damages.” It has been held by the United States Court of Appeals for the Second Circuit that a Plaintiff’s response to a Demand for Damages constitutes the “initial pleading” as defined in Section 28 U.S.C. Section 1446(b). Moltner v. Starbucks Coffee Company, 624 F.3d 34 (2d Cir., 2010).

3. Plaintiff, Charles L. Latimore, sets forth in his Response to Defendants’ Notice to Admit, that he will suffer damages in future earning capacity in an amount more than than \$75,000.00 (Seventy-Five Thousand).

4. Based upon the foregoing, and the fact that Plaintiff’s Response to Defendant’s Notice to Admit was received on March 30, 2022, this Notice of Removal is timely filed within thirty (30) days after receipt of the “initial pleading”.

5. As set forth for the first time by Plaintiffs in their Response to Removing Defendants’ Notice to Admit, Plaintiff’s seek to recover an amount which exceeds \$75,000.00 for personal injuries which allegedly occurred on or about November 4, 2020, in the vicinity of 69 Hinsdale Street in Brooklyn, in the County of Kings and State of New York. In compliance with 28 U.S.C., Section 1446 (a), See, **Exhibit “A”**. A copy of Removing Defendants’ Verified Answer is annexed hereto as **Exhibit “D”**.

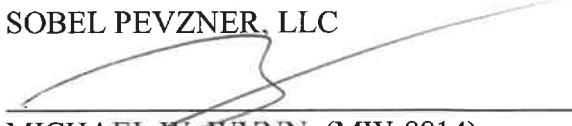
6. Jurisdiction in the United States District Court is founded upon 28 U.S.C. Section 1332(a) as there exists diversity of citizenship between the parties and the sum sought by the

plaintiff exceeds exceed \$75,000.00.

7. Removing Defendants will promptly file a copy of this Notice of Removal in the Supreme Court of the State of New York, County of Bronx, and will serve a copy of the same on the plaintiff in accordance with 28 U.S.C., Section 1446(3).

WHEREFORE, Removing Defendants give notice that the above-captioned action commenced against it in the Supreme Court of the State of New York, County of Kings has been removed to this Court.

Dated: New York, New York
April 5, 2022

SOBEL PEVZNER, LLC
By: 
MICHAEL W. WYNN. (MW-8814)
Attorneys for Defendants
JUAN ROMAN and
A. DUIE PYLE, INC.
30 Vesey Street, 8th Floor
New York, NY 10007
Tel: (212) 216-0020

DECLARATION OF SERVICE BY MAIL

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

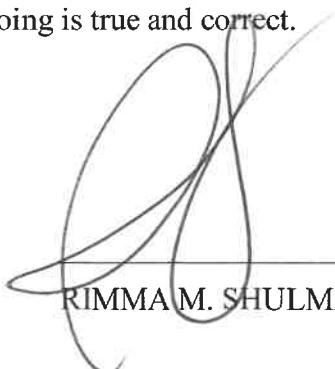
I, RIMMA M. SHULMAN hereby declare, pursuant to 28 U.S.C., Section 1746 and Local Civil Rule 1.10 of this Court, that I am not a party to the action; I am over 18 years of age and reside in Ocean County, New Jersey.

On April 5, 2022, I served the within **NOTICE OF REMOVAL** by depositing a true copy of the same enclosed in a post-paid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York, addressed to each of the following persons at the last known address set forth after each name:

TO: ASHLEY NICOLE JACOBY, ESQ.
 WINGATE, RUSSOTTI, SHAPIRO MOSES & HALPERIN, LLP
 Attorney for Plaintiff
 CHARLES L. LATIMORE
 420 Lexington Ave. Suite 2700
 New York, NY 10170

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
April 5, 2022


RIMMA M. SHULMAN

Civil Action No.:

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

CHARLES L. LATIMORE,

Plaintiff,
- against -

JUAN ROMAN and A. DUIE PYLE, INC.,

Defendants.

NOTICE OF REMOVAL

Signature (Rule 130-1.1-a)

MICHAEL W. WYNN, ESQ.

SOBEL PEVZNER, LLC
Attorneys for Defendants
JUAN ROMAN and A. DUIE PYLE, INC
30 Vesey Street, 8th Floor
New York, NY 10007
(212) 216-0020